



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Siems Rental & Sales Co., Inc.

File: B-257773

Date: July 29, 1994

DIGEST

Where two distinct and separate bid acceptance periods are contained in a bid, one of which is shorter than a required minimum acceptance period, the bid is ambiguous and is therefore nonresponsive.

DECISION

Siems Rental & Sales Co., Inc. protests the Department of the Army's rejection of its bid for specifying a shorter bid acceptance period than that required under invitation for bids (IFB) No. DAAD05-94-B-0027.

We dismiss the protest.

The solicitation at block 12 states:

"NOTE: Item 12 does not apply if the solicitation includes the provisions at [Federal Acquisition Regulation (FAR) § 52.214-16, Minimum Bid Acceptance Period.

"12. In compliance with above, the undersigned agrees, if this offer is accepted within calendar days (60 calendar days unless a different period is inserted by the offeror) from the date for receipt of offers specified above. . . ."

The solicitation also contained the provisions of FAR § 52.214-16, which required a minimum bid acceptance period of 60 calendar days. Siems inserted "30" calendar days in block 12. The agency rejected Siems's bid because it specified a bid acceptance period of less than the required 60-day bid acceptance period. Siems argues that rejection was improper because block 12 is not applicable where the solicitation includes the FAR § 52.214-16 clause and that since the section containing FAR § 52.214-16 is controlling over the entry in block 12, there is no ambiguity. We disagree.

The "does not apply" language in block 12 informs bidders that they may specify an acceptance period of their own choosing only if there is no required minimum acceptance period in the FAR § 52.214-16 clause. It does not mean that bidders are free to specify a bid acceptance period in block 12 and then assert that it is of no consequence. On the contrary, where two distinct and separate bid acceptance periods are contained in a bid, one of which is shorter than a required minimum acceptance period, the bid is ambiguous and is therefore nonresponsive. See John P. Ingram, Jr. & Assoc., Inc., B-250548, Feb. 9, 1993, 93-1 CPD ¶ 117.

The protester makes much of block 12's "does not apply" language, of the provisions in the FAR § 52.214-16 clause stating that it "supersedes language pertaining to the acceptance period that may appear elsewhere in the solicitation," and of our statement in Paragon Investment Corp., B-241715, Jan. 30, 1991, 91-1 CPD ¶ 95, that "based on the plain language of the solicitation, Paragon's entry in [FAR § 52.214-16] was controlling."

As indicated, the solicitation language simply informs bidders of which of two different bid acceptance period provisions applies, and therefore in which provision the bidder should make an entry if it desires to specify an acceptance period other than the one set forth in the invitation. It does not mean that a bidder's entry in one of the provisions may be ignored. Additional language in Paragon made that clear:

"In any event, Paragon's bid was at best ambiguous, and therefore nonresponsive, by virtue of the conflicting bid acceptance period figures that it contained."

As we said in Ingram,

"a bid should be considered nonresponsive where the bid . . . contains a provision completed by the bidder that creates an ambiguity"

The protest is dismissed.

Ronald Berger
Associate General Counsel